

APPEAL NO. 021766
FILED AUGUST 28, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 19, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable lumbar strain injury on _____, and that the claimant had disability as a result of the injury from _____ through December 7, 2001. The appellant (carrier) appeals the compensable injury determination arguing that claimant did not meet his burden of proof and that the evidence reflects that the claimant was not injured at work. The carrier did not appeal the disability determination. That determination has, therefore, become final pursuant to Section 410.169. The appeal file did not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The issue of whether the claimant sustained a compensable injury was a question of fact for the hearing officer. We have observed that the resolution of disputed issues is not governed by the strict rules of pleading as practiced at common law or in the district courts of the State of Texas. See Texas Workers' Compensation Commission Appeal No. 951848, decided December 18, 1995, and cases discussed therein. Thus, some leeway, consistent with express provisions of the 1989 Act and implementing rules, is to be given to the parties to resolve substantive issues as expeditiously as possible provided that due process principles of fundamental fairness are observed in the joining of issues at each stage of the adjudicatory process. We have also stressed that the inclusion of a date of injury is "essential" to resolving the compensability of an injury. Texas Workers' Compensation Commission Appeal No. 94713, decided July 12, 1994. Consistent with these principles, we have not required that the date of injury found by a hearing officer be the same as the date alleged by the claimant when the evidence indicates otherwise. Texas Workers' Compensation Commission Appeal No. 941029, decided September 16, 1994.

The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex.

1986). Applying this standard, we find no legal basis to overturn the hearing officer's factual finding regarding injury.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY** and the name and address of its registered agent for service of process is

**RICK KNIGHT
105 DECKER COURT, SUITE 600
IRVING, TEXAS 75062.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Roy L. Warren
Appeals Judge